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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,205	07/03/2001	Peter W. Wenzel	P1016 (12850RRUS02U)	2218
7590	09/20/2005		EXAMINER	
D.SCOTT HEMINGWAY STORM & HEMINGWAY, LLP 8117 PRESTON RD. PRESTON COMMONS WEST, SUITE 460 DALLAS, TX 75225			MOORE, IAN N	
			ART UNIT	PAPER NUMBER
			2661	
			DATE MAILED: 09/20/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/898,205	WENZEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ian N. Moore	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 June 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 6/27/05. These drawings FIG. 1 and 2 are accepted by the examiner.
2. The drawings (**FIG. 3-6**) are objected to because there is no direct correlation between labels in the specification. Another word, if the labels were, then the full description of the acronym, which directly correlated with acronym/label used in the drawing, should be clearly defined in the speciation. For example, in FIG. 5, the specific direct correlation of label “LC” or “AM” is not described anywhere in the specification, although it appears to describe numerical label step. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not

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accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,7-11, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by

Jakobsen (US006374108B1).

**With regard to claim 1,** Jakobsen discloses a radio communication system (radio network) that includes a base station 358 (serving computer) in cell 350 (first network) as illustrated in Figure 4 (see col. 4, line 22-26). Jakobsen discloses a mobile station 374 (mobile node I wireless communication link) that originates from cell 210 in which SWMI 200 acts as a home agent (column 5, lines 41-45). SWMI 300 (communication server computer), acting as a foreign agent: in cell 350, receives a request from mobile station 374 that the cellular radio communication system assign to the mobile station the same static IP address (controlling the allocation of addresses/ performing accounting functions) as previously outside of cell 350 (column 6, lines 4-10). SWMI 300 checks (control message transmission) with SWMI 200

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whether the static IP requested by mobile station 374 has been assigned to another station (continuation of mobile node's communication session) (column 6, lines 14-18).

**With regard to claim 7,** Jakobsen discloses SWMI 300 in cell 350 is linked via connection 280 (coupled) to SWMI 200 in cell 210 as illustrated by Figure 4 (column 5, lines 66-67).

**With regard to claim 8,** SWMI 300 (communication server computer), acting as a foreign agent in cell 350, receives a request from mobile station 374 that the cellular radio communication system assign to the mobile station the static IP address previously outside of cell 350 (will not chance mobile node's address) (column 6, lines 4-10).

**With regard to claim 9,** Jakobsen discloses a mobile station 374 that originates from cell 210 where SWMI 200 (first serving computer) acts as a home agent (column 5, lines 41-45). SWMI 300 (serving computer), acting as a foreign agent, receives a request from mobile station 374 that the cellular radio communication system assign to the mobile station the same static IP address as previously outside of cell 350(maintaining an address allocation) (column 6, lines 4-10). SWMI 300 checks with SWMI 200 (transmitting a request message / receiving the request message) whether the static IP requested by mobile station 374 has been assigned to another station (session continuation) (column 6, lines 14-18).

**With regard to claims 10 and 11,** SWMI 300 checks (continuation message / accounting message) with SWMI 200 whether the static IP requested by mobile station 374 has been assigned to another station (accounting functions) (column 6, lines 1418).

**With regard to claim 18,** Jakobsen discloses a mobile station 374 that originates from cell 210 where SWMI 200 acts as a home agent (column 5, lines 41-45). SWMI 300, acting as a

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foreign agent, receives a request from mobile station 374 that the cellular radio communication system assign to the mobile station the same static IP address as previously outside of cell 350 (column 6, lines 4-10). SWMI 300 checks with SWMI 200 (receiving a continuation session message) whether the static IP requested by mobile station 374 has been assigned to another station (continuing accounting function mobile node address) (column 6, lines 14-18).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5, 12-17, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakobsen et al, hereinafter "Jakobsen" (US Patent 6,374,108) in view of Yoshida (US Patent 5,570,365).

**With regard to claims 2, 12, and 19,** Jacobsen does not expressly disclose a type field or type data element.

Yoshida discloses a typical format of packets used in a local area network in which the IP header includes a type-of-service (type field / type data element) (column 3, lines 37-40).

A person of ordinary skill in the art would have been motivated to employ Yoshida in Jakobsen so as to communicate control information contained in the packet header. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to obtain the invention as specified in claims 2, 12 and 19.

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**With regard to claims 3, 13 and 20,** Yoshida discloses a total-length field (length field / length data element) (column 3, lines 37-40).

**With regard to claims 4, 14 and 21,** Yoshida discloses a version field (vendertype field / vender-type data element) (column 3, lines 37-40).

**With regard to claims 5, 15 and 22,** Yoshida discloses an identification field (data element / identifier data element) (column 3, lines 37-40).

**With regard to claims 16, 17 and 23,** SWMI 300 checks (session continuation attribute/accounting message) with SWMI 200 whether the static IP requested by mobile station 374 has been assigned to another station (see col. 6, line 14-18).

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jakobsen et al, hereinafter "Jakobsen" (US Patent 6,374,108) in view of Tari et al, hereinafter "Tari" (US Patent 6,552,491).

Jakobsen does not expressly disclose that the serving computer is coupled to an Internet. Tari discloses a terminal unit 5-1 connected to network 2 (Internet) via wireless server B 3-2 (serving computer) as illustrated by Figure 1 (column 3, lines 38-52).

A person of ordinary skill in the art would have been motivated to employ Tari in Jakobsen so as to communicate packet data such as e-mail to a wireless terminal. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to obtain the invention as specified in claim 6.

***Response to Arguments***

8. Applicant's arguments filed 6/27/05 have been fully considered but they are not persuasive.

**Regarding claims 1,9, and 18, the applicant argued that,** “...109 patent does not teach, disclose, or suggest a continuation session attribute data element, maintaining allocation of an IP address or continuing an accounting function for an ongoing communication session...109 expressly teaches away from the existence of such a session continuation attribute because it deallocates the IP address....” in page 1, paragraph 3; page 2, paragraph 2; page 3, paragraph 1, 4.

**In response to applicant's argument, the examiner respectfully disagrees** with the argument above. Jakobsen teaches a continuation session attribute data element, maintaining allocation of an IP address or continuing an accounting function for an ongoing communication session. In particular, as described in above previous and above rejection, Jakobsen discloses a mobile station 374 (mobile node I wireless communication link) that originates from cell 210 in which SWMI 200 acts as a home agent (column 5, lines 41-45). SWMI 300 (communication server computer), acting as a foreign agent: in cell 350, receives a request from mobile station 374 that the cellular radio communication system assign to the mobile station the same static IP address (controlling the allocation of addresses (performing accounting functions) as previously outside of cell 350 (column 6, lines 4-10). SWMI 300 checks (control message transmission) with SWMI 200 whether the static IP requested by mobile station 374 has been assigned to another station (continuation of mobile node's communication session) (column 6, lines 14-18).

In summary, Jakobsen discloses assigning/allocating “static” or “same” IP address which is previously used is assigned in the new cell, thereby, continuing the service, and the packets can be forward to the mobile by means of tunneling; see col. 6, line 5-14, 25-30, which is analogous to applicant claimed invention of “a continuation session attribute data element, maintaining allocation of an IP address or continuing an accounting function for an ongoing communication session”. One skill in the ordinary art would clearly see that when “mobile station” in the new cell is assigned with the “same”, “static”, or “previous” IP address from the old cell, it is a “continuation of the mobile’s communication session” since the same/static/previous address is continued to use. Jakobsen even teaches such scenario as “tunneling” or “static”.

Jakobsen’s scenario of assigning static IP address is clearly disclosed the applicant claimed limitation, although there may be other scenario. Jakobsen describing various scenario of assigning IP address does not make Jakobsen teach away from the invention since **one** of the scenarios is clearly anticipated the applicant claimed invention.

**The applicant argued that,** “...in the invention, the connectively and the IP address are maintained...The IP address cannot be assigned to another mobile node, because the controller server never deallocates the address to free it for assignment to another mobile node ...” in page 3, paragraph 2.

**In response to applicant's argument** that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., **The IP address cannot be assigned to another mobile node, because the controller server never deallocate the address to free it for assignment to another mobile node**) are not recited in

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the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Moreover, identical to the applicant claimed invention, Jakobsen also maintains the connectively and IP address by means of static IP address and tunneling, as described in above response.

In view of the above, **the examiner respectfully disagrees** with applicant's argument and believes that the Jakobsen as set forth in the 102 rejection is proper.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian N. Moore whose telephone number is 571-272-3085. The examiner can normally be reached on 9:00 AM- 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

INM  
9/16/05



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